

The Office Action

The Examiner stated that the application contains claims directed to the following patentably distinct species of the claimed invention: the instant poly(ethylene oxide) component of the melt blend which includes homopolymers of poly(ethylene oxide) and graft copolymers of poly(ethylene oxide), and, thus, is subject to an election requirement. The Examiner rejected Claims 1-14 under 35 U.S.C. 102(b) as anticipated by Wysong (U.S. Pat. No. 4,206,101), Wysong (U.S. Patent 4,215,169), Welygan et al. (U.S. Patent 4,631,215) and Larson et al. (U.S. Patent 5,641,562). The Examiner also rejected Claims 1-14 under 35 U.S.C. 103(a) as obvious over Wysong '101, Wysong '169, Welygan et al. and Larson et al. Applicants respectfully disagree and submit that the claims, as written, distinguish over the prior art.

The Election Requirement

The Examiner stated that the application contains claims directed to the following patentably distinct species of the claimed invention: the instant poly(ethylene oxide) component of the melt blend which includes homopolymers of poly(ethylene oxide) and graft copolymers of poly(ethylene oxide). The Examiner also stated that the Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The examiner further stated that currently, claims 1-7, 9-18 and 20-32 are generic, and that the Applicant is required to elect an ultimate species of poly(ethylene oxide) for further prosecution on the merits.

Applicants are confused by the statements by the Examiner. Applicants submit that the present Claims 1-14 are all directed to graft copolymers of poly(ethylene oxide), and, therefore, the claims are not directed to patentably distinct species of homopolymers of poly(ethylene oxide) and graft copolymers of poly(ethylene oxide) as contended by the examiner. In view of the foregoing, an election does not seem appropriate.

Claim rejection under 35 U.S.C. §102(b) and 35 U.S.C §103(a)

Claims 1-14 have been rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over, Wysong '101, Wysong '169, Welygan et al. or Larson et al.

The Examiner stated that Wysong '101 and '169 teach and exemplify films derived from a melt blend of 5 to 20 pbw polyethylene glycol, 100 pbw polyvinyl alcohol, and less than, or equal to, 2 pbw, based on 100 pbw of the polyvinyl alcohol, polyethylene oxide, governed by a molecular weight between about 500,000 and 1,000,000.

The Examiner also stated that Welygan et al. exemplifies an extruded article derived from a melt blend of aluminum oxide, polyethylene oxide, polyvinyl alcohol and water. The Examiner further stated that Larson et al. teaches films derived from a melt blend of an elastomeric polymer, and between 0 and 100 wt.% of a water-dispersible polymer, which includes polyethylene oxide, polyvinyl alcohol, and mixtures thereof.

The Examiner stated that each reference, Wysong '101, Wysong '169, Welygan et al. and Larson et. al., anticipates the instantly claimed invention. The Examiner also stated that the polyethylene oxide component of each reference (patentee) is generic, and that this necessarily implies that any polyethylene oxide component, including Applicants'

claimed grafted polyethylene oxide, would have been obvious within the scope of the references. The Examiner further stated that one having ordinary skill in the art would have found a fiber, if not taught, obvious from a film.

Applicants respectfully traverse these grounds of rejections for the following reasons. Applicants' invention is drawn to compositions comprising polyvinyl alcohol and a graft copolymer of polyethylene oxide. The Wysong '101 and '169 references, do not disclose graft copolymers of polyethylene oxide. Therefore, these references do not anticipate Claims 1-14 of the present application. Moreover, Welygan et al. does not disclose graft copolymers of polyethylene oxide, and therefore, this reference does not anticipate Applicants' Claims 1-14. In addition, Larson et al. does not disclose graft copolymers of polyethylene oxide, and therefore, this reference does not anticipate Applicants' Claims 1-14.

Moreover, none of the cited references teaches or suggests the use of graft copolymers of polyethylene oxide. The Wysong '101 and '169 references disclose blends prepared from polyethylene glycols that rapidly dissolve in cold water. These references do not teach or suggest the use of graft copolymers of polyethylene oxide. The Welygan et al. reference discloses the use of polyethylene oxide in combination with polyvinyl alcohol and aluminum oxide to form a ceramic structure. This reference does not teach or suggest the use of graft copolymers of polyethylene oxide. The Larson et al. reference discloses the use of polyethylene oxide as a dispersible polymer component in a film. This reference does not teach or suggest the use of graft copolymers of polyethylene oxide.

The Examiner's statement that the disclosure of poly(ethylene oxide) in the cited references necessarily implies that any poly(ethylene oxide) component, including graft copolymers of poly(ethylene oxide), would be obvious therefrom is untenable. Poly(ethylene

oxide) and graft copolymers of poly(ethylene oxide) are chemically and physically distinct. Furthermore, the Examiner's contention regarding obviousness regarding poly(ethylene oxide) and graft copolymers of poly(ethylene oxide) is inconsistent with his contention regarding the alleged need for an election between the patentably distinct species of poly(ethylene oxide) homopolymers and graft copolymers of poly(ethylene oxide). The disclosure of poly(ethylene oxide) homopolymers simply does not suggest or teach the use of graft copolymers of poly(ethylene oxide).

Applicants respectfully submit that since none of the cited references teaches or suggests the use of graft copolymers of polyethylene oxide, Claims 1-14 are not obvious over Wysong, '101, Wysong '169, Welygan, et al., or Larson et al. Applicants further submit that Claims 1-14 are patentable in view of the cited art. Therefore, Applicants respectfully requests reconsideration and withdrawal of the above rejections.

CONCLUSION

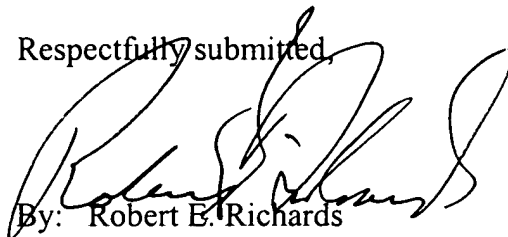
The foregoing is a complete response to the Office Action October 3, 2001. Applicants respectfully submit that Claims 1-14 are in condition for allowance. Early and favorable consideration is solicited.

The present amendment is accompanied by a one-month extension of time. The Commissioner is hereby authorized to charge the fee for the extension of time and any deficiencies which may be required, or credit any over payment, to deposit account No. 11-0855.

If the Examiner believes that there are other issues that can be resolved by a telephone interview, or that there are any informalities that remain in the application, which

may be corrected by Examiner's amendment, a telephone call to the undersigned attorney at (404) 745-2408 is respectfully solicited.

Respectfully submitted,



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